

## CHAPTER 40-02-02

### PERMIT FOR CULTURAL RESOURCE INVESTIGATION

#### Section

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**40-02-02-01. Definitions.** The terms used throughout this title have the same meaning as in North Dakota Century Code chapter 55-03, except:

1. "Board" means the state historical board as defined in North Dakota Century Code section 55-01-01.
2. "Contractor" means any person, real or corporate, who performs cultural resources work for profit or cost reimbursement on behalf of a project sponsor.
3. "Cultural resources work" means all of those processes, procedures, and efforts normally construed by state and federal regulations as necessary for the conduct of investigations, evaluations, or mitigation of adverse effects of proposed projects to historic buildings, structures, or objects, including preproject planning, planning, execution, and reporting of results.
4. "Direct supervision" means active supervision of field and office/laboratory activities by a qualified individual at least seventy-five percent of the time expended for those activities as documented by project records.
5. "Instrumentality of the state" means all agencies, departments, boards, and commissions, and all political subdivisions, of state government.
6. "Permit application fee" means the payment for an annual permit required to conduct cultural resources work.
7. "Project sponsor" means any person, real or corporate, including agencies, departments, companies, nonprofit corporations, corporations, instrumentalities of government, partnerships, political subdivisions, or institutions, which pays for cultural resources work projects.
8. "Report filing fee" means the payment required to accompany a cultural resources work report by a contractor which is deposited with the state historical board of North Dakota, and which report will subsequently

be considered in review of proposed projects considered under the laws and regulations described in North Dakota Century Code section 55-03-01.

9. "Superintendent" means the superintendent of the state historical board of North Dakota as set forth in North Dakota Century Code 55-02-01.

**History:** Effective January 1, 1985.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 55-03-01

**40-02-02-02. Application for permit - Fee.** All applications for permits issued under North Dakota Century Code section 55-03-01 must be made on forms available from:

Superintendent  
State Historical Board of North Dakota  
North Dakota Heritage Center  
Bismarck, ND 58505

Instructions for completion of forms, a list of supporting documentation required, and copies of standards established by the board for the conduct and reporting of cultural resource work projects are also available on request.

All applications for permit must be accompanied by a check made payable to:

State Historical Society of North Dakota.

An application for permit form is attached hereto, incorporated by reference, and labeled Appendix A.

**History:** Effective January 1, 1985.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 55-03-01

**40-02-02-03. Waiver of permit application fee.** The superintendent may waive the annual permit application fee required by North Dakota Century Code section 55-03-01 if the applicant is an instrumentality of the state and if the complete and acceptable application is accompanied by a letter from the chief administrative officer of the instrumentality requesting waiver of the permit fee.

**History:** Effective January 1, 1985.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 55-03-01

**40-02-02-04. Waiver of report filing fee.** Reports of cultural resources work conducted under a permit issued pursuant to North Dakota Century Code section 55-03-01 and filed by a permittee on behalf of a nonprofit corporation formed under North Dakota Century Code chapters 10-24 through 10-28 need

not be accompanied by a report filing fee payment if notification that the project sponsor is a nonprofit corporation is provided at the time of filing.

**History:** Effective January 1, 1985.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 55-03-01

**40-02-02-05. Professional qualifications - Exceptions.** All activities performed under a permit issued pursuant to North Dakota Century Code chapter 55-03 must be conducted by or under the direct supervision of a professionally qualified individual. Evaluations of archaeological, architectural, historical, or paleontological resources must be made by an individual professionally qualified in that particular discipline. The minimum professional qualifications are:

1. **Archaeology.** A graduate degree in archaeology, anthropology, or closely related field plus all of the following:
  - a. At least one year of full-time experience or equivalent specialized training in archaeological research, administration, or management.
  - b. At least four months of supervised field and analytic experience in general North American archaeology.
  - c. A demonstrated ability to carry research to completion, usually documented through the completion of reports of such work.

In addition to the above minimum qualifications, a professional in prehistoric archaeology must have at least one year of full-time experience at a supervisory level in the study of archaeological resources of the prehistoric period. A professional in historic archaeology must have at least one year of full-time experience at a supervisory level in the study of archaeological resources of the historic period.

2. **Architectural history.** A graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history; or a bachelor's degree in architectural history with concentration in American architecture; or a bachelor's degree in architectural history, art history, historic preservation, or closely related field plus one of the following:
  - a. At least two years of full-time experience in historic structures survey and research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution or private company.

- b. A documentably substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.
- 3. **History.** A graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:
  - a. At least two years of full-time experience in historical or closely related field research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historical organization or agency, museum, other professional institution, or private company.
  - b. A documentably substantial contribution through research and publication to the body of scholarly knowledge in the field of history.
- 4. **Paleontology.** A graduate degree in paleontology or closely related field plus all of the following:
  - a. At least one year of full-time experience or equivalent specialized training in paleontological research, administration, or management.
  - b. At least four months of supervised field and analytic experience in general North American paleontology.
  - c. A demonstrated ability to carry research to completion, usually documented through the completion of reports of such work.

Exceptions to these minimum qualification standards may be granted by the superintendent after receipt, review, and acceptance of documentation of an individual's ability to plan, execute, and report such activities within a discipline. Such documentation will usually consist of reports describing such work previously completed by the applicant, and which would be acceptable by all standards other than those of professional qualifications.

**History:** Effective January 1, 1985.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 55-03-02

**40-02-02-06. Revocation of permit - Grounds.** A permit issued pursuant to North Dakota Century Code chapter 55-03 may be revoked when the superintendent determines that the permittee has:

- 1. Allowed activities related to the permit to be performed without supervision by qualified personnel as defined in section 40-02-02-05, or by personnel whose credentials have not been filed with and approved by the superintendent.

2. Filed inadequately documented reports or site forms.
3. Deliberately falsified data used in activities or reports related to activities conducted under the permit.
4. Failed to provide for storage and care of artifacts or excavation records from activities conducted under the permit.
5. Been convicted of participating in illegal activities related to obtaining or trafficking artifacts.
6. Misrepresented the permittee's credentials or qualifications, or that an academic degree which was used by the permittee to represent the permittee's qualifications upon application for permit has been revoked or withdrawn by the granting institution.

**History:** Effective January 1, 1985.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 55-03-03

**40-02-02-07. Revocation of permit - Procedure.** When the superintendent has determined that grounds exist to revoke a permit, the procedures set forth in North Dakota Century Code section 28-32-05 must be followed.

**History:** Effective January 1, 1985.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 55-03-03

## Appendix A

### APPLICATION FOR PERMIT RELATED TO NORTH DAKOTA CENTURY CODE SECTIONS 55-03-01 OR 55-03-01.1

1. Applicant's Name: \_\_\_\_\_ Tel. #( ) \_\_\_\_\_ Ext. \_\_\_\_\_  
Business Address: \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_
2. The applicant is an (check one): \_\_\_\_ individual/ \_\_\_\_ organization/  
\_\_\_\_ institution/ \_\_\_\_ company/ \_\_\_\_ instrumentality of the state of North  
Dakota.
3. On a separate sheet of paper, or by attachment of a prospectus,  
describe the following as available to the applicant:
  - a. Support facilities and personnel (include lab. as appropriate).
  - b. Artifact storage facilities or storage agreements.
4. a. List the name(s) and area(s) of expertise of all individuals the  
applicant will utilize to perform supervisory or in-office evaluation  
work, or both, conducted under the permit applied for here (use  
continuation sheets as necessary):  
  
b. Attach a standard vita for each individual listed at 4a, above.  
  
c. List the name(s) of any individual(s) noted at 4a, above, for whom  
the applicant requests an exception to the minimum professional  
qualifications described at North Dakota Administrative Code  
(NDAC) section 40-02-02-05 (use continuation sheets as  
necessary): For each individual so listed, enclose documentation  
to justify the exception requested.
5. Type of permit applied for (check one):  
  
\_\_\_ a. Annual permit required by North Dakota Century Code (NDCC)  
section 55-03-01 for activities related to satisfaction of state or  
federal review and compliance procedures.  
  
\_\_\_ b. One-time permit required by NDCC section 55-03-01.1 for  
activities related to research to be conducted on land owned  
by an instrumentality of the state and not related to review and  
compliance procedures.
6. Enclose with this application one of the following as appropriate (check  
which enclosed):

- \_\_\_ a. Annual permit fee (\$50.00).
- \_\_\_ b. One-time permit fee (\$100.00). Also enclose a description of the legal location, the SITS number, and a copy of the research design for the activities proposed to be conducted under this permit.
- \_\_\_ c. Documentation described at NDAC section 40-02-02-03. (For annual permit only.)

Permit fees must be made by check payable to: "State Historical Society of North Dakota." One-time permits granted will cover only those activities described in the research design submitted (6b, above).

7. Read and sign the following:

Application is herewith made for a permit related to NDCC section 55-03-01 or 55-03-01.1, which sections I have read and understand. The information provided above, and as attachments to this application, is correct and complete to the best of my knowledge.

\_\_\_\_\_  
(Signature of applicant or  
authorized representative)

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year of 19 \_\_\_\_  
before me personally appeared \_\_\_\_\_ known to me  
to be the person who is described in and who executed the written instrument  
and acknowledged to me that the \_\_\_\_\_  
executed the same.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

SHSND USE ONLY

Date received: \_\_\_\_\_

Reviewed by: \_\_\_\_\_ Date reviewed: \_\_\_\_\_

Action taken: \_\_\_\_\_ Date of action: \_\_\_\_\_